

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

BUILD-A-BEAR WORKSHOP, INC.,

Plaintiff,

vs.

KELLY TOYS HOLDINGS, LLC, KELLY  
AMUSEMENT HOLDINGS, LLC,  
JAZWARES, LLC, and JAZPLUS, LLC,

Defendants.

Case No. 4:24-cv-00211-MTS

Hon. Matthew T. Schelp

**DECLARATION OF NELSON RODRIGUEZ IN SUPPORT OF DEFENDANTS’  
MOTION TO DISMISS**

I, Nelson Rodriguez, declare as follows:

1. I am the Senior Vice President of Strategy and Business Intelligence at Defendant Jazwares, LLC (“Jazwares”). My responsibilities include analysis of financial information, including sales, relating to products sold by Defendants branded with the SQUISHMALLOWS mark.

2. I submit this Declaration in support of Defendants’ Motion to Dismiss in this case, filed herewith. This Declaration is based on personal knowledge and records that Defendants regularly keep in the ordinary course of business that I have access to. If called as a witness, I could and would testify competently to such facts under oath.

3. Defendant Jazwares is a Delaware-registered company with its principal place of business in Broward County, Florida. Jazwares is a direct subsidiary of Alleghany Capital Corporation. Alleghany Capital Corporation is a Delaware-incorporated company with its principal place of business in New York, New York.

4. Defendant Kelly Toys Holdings, LLC (“Kelly Toys”) is a Delaware-registered company with its principal place of business in Los Angeles, California. Kelly Toys is a direct

subsidiary of Jazwares and Jazwares Soft Creations, LLC. Jazwares Soft Creations, LLC is a Delaware-registered company with its principal place of business in Broward County, Florida. Jazwares Soft Creations, LLC is a direct subsidiary of Alleghany Capital Corporation.

5. Defendant Kelly Amusement Holdings, LLC (“Kelly Amusement”) is a Delaware-registered company with its principal place of business in Syosset, New York. Kelly Amusement is a direct subsidiary of Alleghany Capital Corporation.

6. Defendant Jazplus, LLC (“Jazplus”) is a Delaware-registered company with its principal place of business in Broward County, Florida. Jazplus is a direct subsidiary of Alleghany Capital Corporation.

7. None of Jazwares, Kelly Toys, Kelly Amusement, or Jazplus have offices, a physical presence, or employees in Missouri. Nor are any of these companies registered to do business in Missouri.


8. None of Jazwares, Kelly Toys, Kelly Amusement, or Jazplus have engaged in Missouri-specific advertising. Their advertising for SQUISHMALLOWS is general and national in nature. Though such advertising could reach Missouri, it was not specifically directed to, or designed for, Missouri consumers or the Missouri market.

9. I understand that there is a contention in this case that SQUISHMALLOWS may be available for sale in physical retail stores in Missouri, including in Target, Walgreens, and Walmart. That is true. However, Defendants do not have supply agreements with these national retailers that specifically target Missouri consumers or the Missouri market. Instead, these retailers purchase SQUISHMALLOWS for sale throughout the United States.

10. I also understand that there is a contention that Defendant Jazwares makes SQUISHMALLOWS available for sale through its website. That is also true. But, again, products for sale on the website are available nationwide and are not specifically targeted at Missouri consumers or the Missouri market. Likewise, Defendants’ SQUISHMALLOWS products available for sale on Amazon.com are offered nationwide and are not specifically targeted at Missouri consumers or the Missouri market.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2024.

  
By: [Nelson Rodriguez \(Mar 1, 2024 11:49 EST\)](#)  
Nelson Rodriguez